

Wolff Law Offices, PLLC  
Response To Election/Restriction and Amendment

Appl. Ser. No. 10/657,189

### REMARKS

Applicant hereby submits this Response and Amendment to respond to the Election/Restriction notice dated July 27, 2006. Claims 1-51 have been examined. Claims 24, 29, 50 and 51 have been amended. Claims 24 and 29 were amended to correct minor typographical errors. Claims 50 and 51 were amended to more clearly claim the invention of the subject application. Applicant notes for the record that these claim amendments are made to facilitate the Examiner's understanding that all claims are related and that none of the claim amendments are made for reasons of patentability.

Applicant thanks the Examiner for the telephone interview on August 22, 2006, relating to the July 27, 2006, Office Action. During this communication, the undersigned inquired as to the Examiner's rationale behind the Group I restriction into species and subspecies and pointed out the unusual nature of this election requirement. The Examiner requested to delay discussion until she had a chance to review the case. The undersigned agreed.

Applicant thanks the Examiner for the telephone communication on August 23, 2006. During this communication, the Examiner indicated her intention to withdraw the election of species and subspecies requirement from Page 3, Paragraph 4 of the July 27, 2006, Office Action. Applicant thanks the Examiner for withdrawing this requirement, and thus has not responded to that election of species requirement herein. Further, the undersigned and Examiner discussed some proposed amendments to claims 50 and 51. The Examiner indicated that the proposed revisions, at least to claim 51, which are more

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clearly directed to diagnosing a catalyst, should result in the removal of the restriction requirement based on the three groups designated in the July 27, 2006, Office Action. Applicant believes that the amendments to Claim 50 found herein should likewise result in removal of the restriction requirement.

The July 27, 2006, Office Action restricted the claims under 35 USC 121 to either: (1) Group I having claims 1-49, drawn to a method of diagnosing a working condition of a catalyst, classified in class 60, subclass 277; (2) Group II having claim 50, drawn to a method for compensating engine power changes caused by controlled changes in the quantity of residual exhaust gases entering an engine's cylinder, classified in class 60, subclass 278; or (3) Group III, having claim 51 drawn to changing engine operating parameters to cause the rise in catalyst temperature, classified in class 60, subclass 284. This rejection is respectfully traversed. Applicant respectfully requests reconsideration and asks that all claims 1-51 be examined together.

Applicant believes that all the claims, 1-51, are related and that no additional burden will be required to examine all groups of claims. Applicant notes that the parent patent application, now U.S. Patent No. 6,651,422, had been searched by the Examiner in classifications 60/ 277, 60/274, 60/284, and 60/285, without restricting the claims. Applicant does note that classification 60/278, identified in Group II, was not searched in the parent patent application, now U.S. Patent No. 6,651,422. However, the Applicant has amended Claims 50 and 51 so that they are more clearly related to the same invention as Claims 1-49. Accordingly, Applicant believes that the restriction requirement should be removed.

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As previously noted, it may be observed that throughout the specification of the present application, the heating of the catalyst at cold start, varying the gas treatment, and diagnosing a catalyst may each be used as part of the various embodiments directed at operating and diagnosing a catalytic converter system. Certainly, the steps may be used separately. But, contrary to the Examiner's statement, they are clearly disclosed as "capable of use together." (See, for example, the Summary section of the specification.) As noted in paragraph 20, the "invention provides methods or controlling exhaust gases from an engine's individual cylinders to improve overall catalytic converter performance, and may do so while also diagnosing proper operation ... ." Further, to make the relationship clear, Applicant has amended the claims so that each group now relates to diagnosing a catalyst too. Thus, Applicant respectfully and strenuously submits that the all the claims in the application should be examined together. It simply is not possible for the Examiner to not search any of the class/subclass designations identified in the Office Action regardless of which claims are selected. All these areas of the art must be searched regardless. There is no unreasonable burden to searching by examining all the claims together. In fact, it is more efficient. Therefore, all of claims 1-51 should be examined together.

Pursuant to 35 USC 121, Applicants hereby provisionally elects one of the groups, Group I having claims 1-49, for Examination. Applicant respectfully submits, however, that with the revisions to Claims 50 and 51 presented in this Response, all claims are directed to the same invention, are found in the same search group(s), and should be examined together.

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If for any reason the Examiner believes that the present application is not now in condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below or on my mobile telephone at 703-731-7220.

Respectfully submitted,



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Date: August 28, 2006